



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,505	09/03/2004	Yoshihiro Hori	70456-056	2825

7590 04/17/2007
Gene Z Rubinson
McDermott Will & Emery
600 13th Street N W
Washington, DC 20005-3096

EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT	PAPER NUMBER
----------	--------------

2131

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/506,505	Applicant(s) HORI ET AL.	
	Examiner Christian La Forgia	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/3/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-16 have been presented for examination.

Priority

2. Acknowledgment is made of applicant's claim for foreign. ***Information Disclosure***

Statement

3. The information disclosure statement (IDS) submitted on 03 September 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Drawings

4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

6. Claims 1-16 are objected to because of the following informalities: They are replete with spelling errors, for example, claim 5 recites “cypher” while the correct spelling should be “cipher.” Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-6, 8, 9, 11-13, and 16 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 02/075550 to Hori et al., as applied via translated U.S. Patent Application Publication No. 2004/0088510 to Hori.

9. Claims 1-6, 8, 9, 11-13, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0088510 to Hori, hereinafter Hori.

10. The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Art Unit: 2131

11. As per claim 1, Hori teaches a data storage device (Figures 1 and 2 [block 110], 8 [block 1415], 12, 17 [block 1415]) performing input/output of classified data in accordance with predetermined input/output procedures for protection of said classified data, and storing said classified data, comprising:

an interface portion externally exchanging data (Figure 8 [block 1424], paragraph 0115, i.e. interface **1424** transmitting signals to and from memory card interface);

a first storage portion storing said classified data (Figures 8 [blocks 1415B, 1415C], 17 [block 1415B], paragraphs 0118-0119); and

a second storage portion storing log information (Figures 8 [block 1415A], 17 [1415 A], paragraphs 0117, 0202-0204) related to the input/output of said classified data according to said predetermined input/output procedures (Figure 17 [blocks 70, 80], paragraph 0203) and an address representing a storage position of said classified data to be input/output in said first storage portion (Figure 17 [block 82], paragraph 0203).

12. Regarding claim 2, Hori teaches a control portion controlling the input/output of said classified data (Figure 8 [blocks 1420], paragraph 0120), wherein said log information includes:

an identification code identifying said classified data to be input/output (paragraphs 0117-0118, 0128, i.e. license ID, content ID), and

a first status information representing a state of storage of said classified data to be input/output in said first storage portion (Figures 12, 17 [block 73], paragraphs 0117, 0203, 0207); and

said control portion operates in accordance with said predetermined input/output procedures to receive said identification code and said address of said classified data to be input/output via said interface portion (Figure 9 [steps S100, S102, S104, S110], paragraphs 0128-0130), and to store said identification code (Figure 17 [block 71]) and said address in said second storage portion (Figure 17 [block 82]), and operates in response to a request externally applied via aid interface portion to determine the state of storage of said classified data in said first storage portion based on said identification code and said address stored in said second storage portion, and to renew said first status information based on said state of storage (Figures 9 [blocks S128, S130, S132, S136], 10 [step S154, S160, S161], paragraphs 0135-0136, 0142-0145).

13. With regards to claim 3, Hori teaches wherein said log information further includes a second status information recording a status of progression of said predetermined input/output procedures relating to the input/output of said classified data to be input/output, and said control portion renews said second status information in accordance with the progression of said predetermined input/output procedures (Figures 14 [block S332], 16 [block S366], 18 [block S432], 19 [block S446], paragraph 0181, 0195, 0218, 0220).

14. With regards to claim 4, Hori teaches wherein said log information further includes procedure specifying information specifying said predetermined input/output procedures (paragraph 0202), and

Art Unit: 2131

said control portion renews said procedure specifying information in response to every new obtaining of said procedure specifying information (paragraph 0181, 0195, 0218, 0220).

15. Concerning claim 5, Hori teaches a cipher communication portion operating in accordance with said predetermined input/output procedures to establish a cipher communication path to a supplier or a receiver of said classified data via said interface portion, and to receive or transmit said classified data via said established cipher communication path (Figures 5 [block 328], 8 [blocks 1406, 1410, 1417], paragraphs 0141, 0182, i.e. receiving encrypted data), wherein

in an input procedure included in said predetermined input/output procedures for receiving and storing said classified data (Figures 9, 10, 18, paragraphs 0104, 0208),

said cipher communication portion receives said classified data in accordance with said input procedure (paragraphs 0141, 0182, i.e. receiving encrypted data), and

said control portion receives said address via said interface portion (paragraphs 0141, 0182, i.e. receiving encrypted data), stores said received address in said second storage portion, and stores said classified data received by said cipher communication portion in a storage position on said first storage portion specified by said received address (Figure 17, paragraphs 0202-0208).

16. Concerning claim 6, Hori discloses wherein in said input procedure, said cipher communication portion produces a first session key (paragraph 0023), and

Art Unit: 2131

said control portion renews said procedure specifying information with said first session key in response to every production of said first session key by said cipher communication portion (paragraph 0181, 0195, 0218, 0220).

17. Concerning claim 8, Hori teaches wherein in an output procedure included in said predetermined input/output procedures for externally outputting said classified data stored in said first storage portion (Figures 9, 10, 18, paragraphs 0105, 0208),

said control portion receives said address via said interface portion, stores said received address in said second storage portion, obtains said classified data from the storage position on said first storage portion specified by said received address, and applies said classified data to said cipher communication portion (Figure 9 [steps S100, S102, S104, S110], paragraphs 0128-0130, 0135-0136, 0142-0145), and

said cipher communication portion transmits said classified data received from said control portion in accordance with said output procedure (paragraphs 0140, 0182).

18. Concerning claim 9, Hori teaches wherein in said output procedure, said cipher communication portion receives an externally produced second session key (paragraph 0023), and

said control portion renews said procedure specifying information with said received second session key in response to every reception of said second session key by said cipher communication portion (paragraph 0181, 0195, 0218, 0220).

Art Unit: 2131

19. With regards to claim 11, Hori teaches wherein said classified data includes said identification code peculiar to said classified data (paragraphs 0117-0118, 0128, i.e. license ID, content ID), and

said control portion determines the storage state of said classified data in said first storage portion by specifying said classified data in accordance with said identification code included in said classified data stored in the storage position on said first storage portion specified by said address (Figures 12, 17 [block 73], paragraphs 0117, 0203, 0207).

20. Concerning claim 12, Hori teaches wherein in an input procedure included in said predetermined input/output procedures for receiving said classified data via said interface portion and storing said classified data in said first storage portion (Figures 9, 10, 18, paragraphs 0104, 0208),

said control portion interrupts said input procedure without storing said classified data in said first storage portion when mismatch occurs between the identification code included in said received classified data and the identification code included in said log information (Figures 18 [blocks S434], 19 [blocks S446, S450, S456], paragraphs 0210, 0218, 0220, 0222).

21. Concerning claim 13, Hori teaches wherein in an output procedure included in said predetermined input/output procedures for outputting said classified data stored in said first storage portion via said interface portion (Figures 9, 10, 18, paragraphs 0105, 0208),

said control portion interrupts said output procedure without outputting said classified data when the identification code included in said classified data stored in the storage position on

Art Unit: 2131

said first storage portion specified by said address does not match with the identification code included in said log information (Figures 18 [blocks S434], 19 [blocks S446, S450, S456], paragraphs 0210, 0218, 0220, 0222).

22. Regarding claim 16, Hori teaches wherein said classified data is a decryption key (Figure 18 [blocks S420]) for decrypting and using encrypted content data (Figure 18 [blocks S422], paragraphs 0215-0216), and

said data storage device further comprises a third storage portion storing said encrypted content data (Figure 8 [block 1415C], paragraph 0119).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 7, 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/075550 to Hori et al., in view of U.S. Patent No. 6,477,530 to Omata et al., hereinafter Omata.

25. Concerning claim 7, Hori discloses wherein in a re-input procedure included in said predetermined input/output procedures for resuming said input procedure when said input procedure is interrupted (Figures 18 [blocks S434], 19 [blocks S446, S450, S456], paragraphs 0210, 0218, 0220, 0222),

said control portion renews said first status information included in said log information stored in said second storage portion, obtains said log information from said second storage portion and applies said log information to said signing portion (Figures 12, 17 [block 73], paragraphs 0117, 0203, 0207),

said log information including said renewed first status information to produce said signed log information (Figures 9, 10, 18, paragraphs 0105, 0208), and

said cipher communication portion transmits said signed log information produced by said signing portion via said established cipher communication path in accordance with said re-input procedure (paragraph 0181, 0195, 0218, 0220).

26. Hori does not disclose a signing portion producing a signed log information prepared by affixing an electronic signature to said log information or a part of said log information.

27. Omata discloses attaching signature data to data (Figures 9 & 11 [block 25], 18 [block S56], 19 [block S67], column 52-62, column 13, lines 41-55).

28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a signing portion producing a signed log information prepared by affixing an electronic signature to said log information or a part of said log information, since Omata states at column 13, lines 56-61 that checking the digital signature will help detect that data has been falsified, thereby detecting illegal copies of distributed data.

29. Concerning claim 10, Hori teaches wherein in a re-output procedure included in said predetermined input/output procedures for resuming said output procedure when said output

Art Unit: 2131

procedure is interrupted (Figures 19 [block S63], 20 [block S74], 21 [block S82], column 17, lines 32-40, column 17, lines 62-67, column 18, line 32-49),

said cipher communication portion receives and applies said signed log information to said log certifying portion in accordance with said re-output procedure (Figure 17, paragraphs 0202-0208),

said control portion determines whether said output procedure is interrupted or not, based on said log information stored in said second storage portion and said received signed log information when said received signed log information is certified (Figures 18 [blocks S434], 19 [blocks S446, S450, S456], paragraphs 0210, 0218, 0220, 0222);

determines whether the storage position on said first storage portion specified by said address stored in said second storage portion can be restored to the storage state before interruption of said output procedure or not, when it is determined that said output procedure is interrupted (paragraphs 0210-0224);

restores said storage position to the storage state attained before interruption of said output procedure, and resumes said interrupted output procedure, when it is determined that the restoring is possible (paragraphs 0210-0224).

30. Hori does not disclose a log certifying portion verifying and certifying externally applied signed log information, said log certifying portion verifies said signed log information received from said cipher communication portion.

31. Omata teaches a log certifying portion verifying and certifying externally applied signed log information, said log certifying portion verifies said signed log information received from

Art Unit: 2131

said cipher communication portion (Figures 19 [block S61], 20 [block S72], 21 [block S80], column 17, lines 32-40, column 17, lines 62-67, column 18, line 32-49).

32. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a log certifying portion verifying and certifying externally applied signed log information, said log certifying portion verifies said signed log information received from said cipher communication portion, since Omata states at column 13, lines 56-61 that checking the digital signature will help detect that data has been falsified, thereby detecting illegal copies of distributed data.

33. With regards to claim 14, Hori teaches wherein in a re-input procedure performed for resuming an input procedure for receiving said classified data via said interface portion and storing said classified data in said first storage portion, when said input procedure is interrupted (Figures 18, 19, paragraphs 0210, 0218, 0220, 0222),

said control portion outputs said signed log information via said interface portion (Figures 9, 10, 18, paragraphs 0105, 0208).

34. Hori does not disclose a signing portion producing signed data for said log information, and producing signed log information by affixing said produced signed data to said log information.

35. Omata discloses attaching signature data to data (Figures 9 & 11 [block 25], 18 [block S56], 19 [block S67], column 52-62, column 13, lines 41-55).

36. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a signing portion to produce signed data for said log information and

Art Unit: 2131

affixing the signed data to the log information, since Omata states at column 13, lines 56-61 that checking the digital signature will help detect that data has been falsified, thereby detecting illegal copies of distributed data.

37. Concerning claim 15, Omata teaches a log certifying portion verifying and certifying an additional signed log information (Figures 19 [block S61], 20 [block S72], 21 [block S80], column 17, lines 32-40, column 17, lines 62-67, column 18, line 32-49) prepared by affixing a signed data for an additional log information of said receiver to said additional log information, and received from said receiver of said classified data via said interface portion (Figures 9 & 11 [block 25], 18 [block S56], 19 [block S67], column 52-62, column 13, lines 41-55), wherein

said log certifying portion verifies correctness of said additional signed log information received from the receiver of said classified data (Figures 19 [block S61], 20 [block S72], 21 [block S80], column 17, lines 32-40, column 17, lines 62-67, column 18, line 32-49), and

said control portion interrupts said re-output procedure, when said additional signed log information is not certified, or when said additional signed log information is certified and it is determined based on said additional signed log information and said log information stored in said second storage portion that said output procedure is not interrupted (Figures 19 [block S63], 20 [block S74], 21 [block S82], column 17, lines 32-40, column 17, lines 62-67, column 18, line 32-49).

38. Hori teaches in a re-output procedure performed for resuming an output procedure for outputting said classified data stored in said first storage portion via said interface portion, when

Art Unit: 2131

said output procedure is interrupted (Figures 18 [blocks S434], 19 [blocks S446, S450, S456], paragraphs 0210, 0218, 0220, 0222).

Double Patenting

39. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

40. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Art Unit: 2131

41. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

42. Claims 1-16 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-9 of copending Application No. 10/522,176. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

43. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows (related subject matter shown as **bold**):

Claims 1 and 2 of instant application	Claim 1 of Application No. 10/522,176
<p>1. A data storage device performing input/output of classified data in accordance with predetermined input/output procedures for protection of said classified data, and storing said classified data, comprising:</p> <p style="padding-left: 40px;">an interface portion externally exchanging data;</p> <p style="padding-left: 40px;">a first storage portion storing said classified data; and</p> <p style="padding-left: 40px;">a second storage portion storing log information related to the input/output of said classified data according to said predetermined input/output procedures and an address representing a storage position of said classified data to be input/output in said first storage portion,</p> <p>(2.) a control portion controlling the input/output of said classified data, wherein said log information includes:</p> <p style="padding-left: 40px;">an identification code identifying said classified data to be input/output, and</p>	<p>1. A data storage device for performing input/output of classified data in accordance with a constant procedure, storing said classified data, and operating to store history information or update at appropriate timing said history information in accordance with said constant procedure, comprising:</p> <p style="padding-left: 40px;">an interface performing external input/output of data;</p> <p style="padding-left: 40px;">a data storage portion storing said plurality of classified data;</p> <p style="padding-left: 40px;">a log storage portion storing a plurality of items of the history information relating to the input/output of said classified data; and</p> <p style="padding-left: 40px;">a control portion controlling the input/output of said classified data, wherein said log storage portion is provided as a ring buffer circulatively utilizing two or more regions each storing one item of said history information,</p> <p style="padding-left: 40px;">each of the plurality of items of said</p>

<p>a first status information representing a state of storage of said classified data to be input/output in said first storage portion; and said control portion operates in accordance with said predetermined input/output procedures to receive said identification code and said address of said classified data to be input/output via said interface portion, and to store said identification code and said address in said second storage portion, and operates in response to a request externally applied via said interface portion to determine the state of storage of said classified data in said first storage portion based on said identification code and said address stored in said second storage portion, and to renew said first status information based on said state of storage.</p>	<p>history information stored in said log storage portion includes identification information identifying the classified data storing the history information and being to be input/output, and</p> <p>said control portion receives the identification information identifying the classified data to be input/output in accordance with start of input/output processing of said classified data, searches a plurality of regions in said log storage portion in a predetermined order, determines the region storing the earliest item of the history information stored in said log storage portion as the earliest region, and newly stores the history information relating to the input/output processing of said classified data including said received identification information in the determined earliest region.</p>
---	--

44. Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

45. Claims 1-16 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-15 of copending Application No. 10/340,832. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

46. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows (related subject matter shown as **bold**):

Claims 1 and 2 of instant application	Claim 1 of Application No. 10/340,832
<p>1. A data storage device performing input/output of classified data in accordance with predetermined input/output procedures for protection of said classified data, and storing said classified data, comprising:</p> <p style="padding-left: 40px;">an interface portion externally exchanging data;</p> <p style="padding-left: 40px;">a first storage portion storing said classified data; and</p> <p style="padding-left: 40px;">a second storage portion storing log information related to the input/output of said classified data according to said predetermined input/output procedures and an address representing a storage position of said classified data to be input/output in said first storage portion,</p> <p>(2.) a control portion controlling the input/output of said classified data, wherein said log information includes:</p> <p style="padding-left: 40px;">an identification code identifying said classified data to be input/output, and</p> <p style="padding-left: 40px;">a first status information representing a state of storage of said classified data to be input/output in said first storage portion; and</p> <p>said control portion operates in accordance with said predetermined input/output procedures to receive said identification code and said address of said classified data to be input/output via said interface portion, and to store said identification code and said address in said second storage portion, and operates in response to a request externally applied via said interface portion to determine the state of storage of said classified data in said first storage portion based on said identification code and said address stored in said second storage portion, and to renew said first status information based on said state of storage.</p>	<p>1. A storage apparatus to input/output classified data according to a predetermined procedure, and storing said classified data, comprising:</p> <p style="padding-left: 40px;">an interface for data input/output with an external source,</p> <p style="padding-left: 40px;">a data storage unit storing said classified data,</p> <p style="padding-left: 40px;">a plurality of log storage units storing history information associated with input/output of said classified data, and</p> <p style="padding-left: 40px;">a control unit controlling input/output of said classified data,</p> <p style="padding-left: 40px;">each of the plurality of history information stored in said plurality of log storage units including identification information to identify classified data,</p> <p style="padding-left: 40px;">wherein said control unit receives via said interface said identification information identifying classified data that has become a subject of input/output in response to commencement of an input/output process of said classified data, selects a log storage unit that stores history information including said received identification information out from said plurality of log storage units when there is such a log storage unit, and stores history information according to a progress of a procedure for said classified data input/output into said selected log storage unit.</p>

Art Unit: 2131

47. Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

48. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

49. The following patents are cited to further show the state of the art with respect to data storage devices with private and log storage areas, such as:

United States Patent No. 7,010,809 to Hori et al., which is cited to show the reproduction of encrypted content data.

United States Patent Application Publication No. 2002/0131594 to Hori et al., which is cited to show the reproduction of encrypted content data.

United States Patent No. 6,999,948 to Hatanaka et al., which is cited to show a memory card with a log and storage are for classified data.

United States Patent Application Publication No. 2006/0116969 to Hatanaka et al., which is cited to show a memory card with a log and storage are for classified data.

United States Patent Application Publication No. 2005/0076208 to Hori et al., which is cited to show a memory card with a log and storage are for classified data.

United States Patent Application Publication No. 2003/0200458 to Hori et al., which is cited to show a memory card with a log and storage are for classified data.

Art Unit: 2131

50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (571) 272-3792.

The examiner can normally be reached on Monday thru Thursday 7-5.

51. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

52. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian LaForgia
Patent Examiner
Art Unit 2131

A handwritten signature in black ink, appearing to read 'CLF', with a long horizontal line extending to the right.

clf